

IN SENATE OF THE UNITED STATES,

JANUARY 19, 1826.

Mr. BENTON, from the Select Committee, to which was referred the several resolutions proposing amendments to the Constitution of the United States,

REPORTED, IN PART:

That, in considering these various propositions, the Committee could not be insensible to an objection, often repeated, against the expediency of making any alterations in the fundamental principles of our Government. Giving to this objection its due weight, and admitting the impolicy of making sudden and hasty changes, the committee would yet deem it an unwise surrender of an undoubted right, in the existing generation, to refuse to make any reform in the Federal Constitution, which *time* and *experience* has proved to be necessary. Founded in the rights of man, this right to improve our social condition has been acknowledged and guarantied in the Constitution itself; and that it was not intended to be a barren privilege, nor its exercise construed into a mark of irreverence towards our ancestors, was sufficiently shown by the Constitution itself, in the double means which it provided for effecting its own amendment. By these means, the right of amendment is secured to the Congress and the States, conjointly, and to the States themselves independent of Congress. This double capacity to receive amendment, was considered by its ablest supporters, about the time of its adoption, as one of the best features in the Constitution. The privilege secured to the States to demand from Congress the convocation of a National Convention, and to originate and perfect amendments, independent of the will of any branch of the Federal Government, was particularly relied upon, and carefully pointed out as the proper resort of the States, whenever Congress should neglect or refuse to propose the amendments which the people desired. A reference to the proceedings of the ratifying conventions, will show the stress which was laid by the friends of the Constitution, on this double capacity of that instrument, to receive amendment; and the further fact, that, but for the existence of this capacity, and a belief in the greater facility of procuring subsequent than previous amendments, that Constitution, which is now deemed, by some, too perfect to be touched, would never have obtained the ratification of a sufficient number of States to put it into operation.

Equally rejecting, on one hand, that attachment to old institutions which rejects every idea of improvement, and, on the other, that spirit of innovation which would leave nothing stable in the Constitution, the committee have carefully considered the several propositions of amendment referred to them by the order of the Senate, and, after comparing them with the existing provisions of the Constitution on the same points, they have come to the conclusion, that the plan of that instrument has failed in the execution, in that most difficult part of all elective governments—the choice of the chief magistrates; and that it is no less a right than a duty, in the existing generation, to provide another plan, more capable of a steady, equal, and uniform operation. Besides a want of uniformity under the present plan, to such a degree as to exhibit three different modes of election in operation at once, and a want of stability so great as to admit all these to be changed whenever the State Legislatures please, the Committee would indicate two great leading features in which the intention of the Constitution has wholly failed—the *INSTITUTION of ELECTORS*; and the *ultimate election by STATES in the House of Representatives*. Considering that the effects of these failures, the want of uniformity, and the instability of the present modes of election, have nearly left us without constitutional rules for the choice of the two first officers of the Federal Government; and believing that an amendment which would combine the advantages of uniformity, stability, and equality, would be acceptable to the people, and favorable to the cause of liberty, the Committee have resolved to propose:

First. That a uniform mode of election, by districts, shall be established.

Secondly. That the institution of electors shall be abolished, and the President and Vice President hereafter elected by a direct vote of the people.

Thirdly. That a second election, to be conducted in the same manner as the first, shall take place between the persons having the two highest numbers for the same office, when no one has received a majority of the whole number of votes first given.

The details of this plan of election are given at length, in the *RESOLUTION* herewith submitted; and in bringing forward a plan so essentially differing from that of the present Constitution, the Committee believe it to be their duty to the Senate, to submit, at the same time, a brief exposition of the reasons which have influenced their determination.

The first feature which presents itself in the Committee's plan of election, is the *uniformity of the system* which is proposed to be substituted for the discordant and varying modes of election, which now prevail in different States, and even in the same State, at different times. To enumerate these various modes, is a task alike impracticable and unprofitable; for they change with a suddenness which defies classification: To point out the evils of such discordant and mutable practices, is unnecessary; for the whole continent has just seen and deprecated their pernicious effects: To argue in favor of *some* uniform

mode of election, is deemed superfluous; for its necessity is universally admitted; the demand for uniformity is heard in all directions; and public expectation must suffer a deep disappointment, if earnest and persevering exertions are not made at the present session to accomplish an object of such pervading interest.

The plan of *uniformity* which has received the approbation of the Committee, is that of the district system. It is believed to be the plan which, in addition to perfect uniformity, will give to every State, and to the several sections of the State, and, as far as possible, to every individual citizen of the whole Union, their legitimate share and due weight in the election of the chief officers of their country. The formation of the districts, the qualifications of the voters, and the manner of conducting the elections, being left to the State Legislatures, these important powers are placed in the safe and unexceptionable hands which have a right to hold them. The *time* of holding the elections, being necessary to the *uniformity* of the system, is fixed in the plan of amendment. The number of the districts is made to depend upon the same principle which now determines the number of electors; and, by assigning to each district one vote for President, and one for Vice President, the relative weight of the States in this important election remains precisely as fixed in the present Constitution. The *uniformity* of this system of election is perfect, and, therefore, one of the main objects of amendment will be accomplished by its adoption. That it is the best system which can be adopted, is confidently believed. No other plan could be proposed but that of choosing electors by general ticket, or legislative ballot; the first of which enables the majority to impress the minority into their service, puts it into the power of a few to govern the election, and enables the populous States to consolidate their vote, and to overwhelm the small ones; the second takes the election almost entirely out of the hands of the People, leaves it to a pre-existing body, elected for a different purpose, and enables the dominant party in the Legislature, to bestow the vote of the State according to their own sense of public duty or private interest. Both these systems are liable to the gravest objections, and are justly condemned by the public voice; even some of the States which retain them, make a plea of the necessity which compels them to counteract the same system in some other State; while the district system, which the Committee recommend, possesses not only the advantage of being in itself the best, but of being, also, the one which is now in force in a majority of the States, and the one which many others would gladly adopt, if all others could be made to do so at the same time. It is, besides, the mode of election in which, either, electors may be used, or a direct vote given by the People; while the general ticket and the legislative ballot necessarily exclude the direct vote, and require the agency of those intermediate electors which it is a part of the object of this report, to prove to be both useless and dangerous to the rights of the People.

The second leading feature in the Committee's plan of amendment is the substitution of a direct vote, for the indirect one which the

people now give in the election of President and Vice President. It is in this part of the Constitution, that the intention of this instrument has most completely failed. Every advantage expected to have been derived from the institution of electors has failed in practice, and a multitude of evils, not foreseen, have sprung up in place of the anticipated good. It was the intention of the Constitution that these electors should be an independent body of men, chosen by the people from among themselves, on account of their superior discernment, virtue, and information; and that this select body should be left to make the election according to their own will, without the slightest control from the body of the people. That this intention has failed of its object in every election, is a fact of such universal notoriety, that no one can dispute it. That it ought to have failed, is equally incontestable; for such independence in the electors was wholly incompatible with the safety of the people. That it was, in fact, a chimerical and impracticable idea in any community, except among a people sunk in that apathy which precedes the death of liberty, is a proposition too clear to need illustration. The failure, then, was, as it ought to have been, and was obliged to be, complete from the very first institution of electors. In the first election held under the constitution, the people looked beyond these agents, fixed upon their own candidates for President and Vice President, and took pledges from the electoral candidates to obey their will. In every subsequent election, the same thing has been done. Electors, therefore, have not answered the design of their institution. They are not the independent body and superior characters which they were intended to be. They are not left to the exercise of their own judgment; on the contrary, they give their vote, or bind themselves to give it, according to the will of their constituents. They have degenerated into mere agents, in a case which requires no agency, and where the agent must be useless, if he is faithful, and dangerous, if he is not. Instead of being chosen for the noble qualities set forth in the "Federalist," candidates for electors are now most usually selected for their devotion to a party, their popular manners, and a supposed talent at electioneering, which the framers of the Constitution would have been ashamed to possess. In the election by general ticket, the candidates are presented to people in masses equal to the whole number of votes which the State has a right to give. The ticket bearing their names is composed by some unseen and irresponsible power, printed, and sent forth to the people to be voted for by many who know them not, but who are required to yield implicit confidence both in the ticket itself, and the unseen body which prepared it. Discipline and management most usually ensures success to this ticket; and thus a string of electors become possessed of the votes of a State, without being sufficiently known to most of the voters to merit their confidence in the smallest particular; and often less known to them than the Presidential candidates themselves. When chosen by Legislative ballot, these titular electors are still further removed from all knowledge and control of the people, and act a part still more subdued to the purposes of a party. Even in the district mode of election, where electors are

least dangerous, they are still sufficiently so, to merit rejection from a service which every individual voter is competent to perform in his own person. In the first place, wherever the evil of the general ticket is avoided, another evil of an opposite character is encountered, in the multitude of electoral candidates which offer themselves on the part of the same person; those who offer first, are frequently the most unfit in the district; but, having put forth their names, they consider themselves as vested with a sort of *pre-emption* right to the place, and refuse to surrender their self-created pretensions. The spirit of intrigue and artifice takes advantage of this state of things, and, working upon the vanity and obstinacy of various candidates, contrives to perplex, distract, divide, and disgust the people with their irreconcilable pretensions. At last, when reduced to the proper number, and one for each Presidential candidate is fairly put before the people, it may happen that the confidence of many voters will be destroyed in the candidate of their own party, by insidious or bold attacks upon the integrity of his intentions. But, supposing this danger to be avoided, and a faithful candidate believed to be found, his sincerity placed above suspicion, and himself fairly pitted against a rival candidate in the opposite ranks; even then he does an injury to the purity of the election, by bringing his own exertions, and the weight of his own character, good or bad, to mix in the Presidential canvass, and to influence its result. If elected, the people who voted for him, have no power to control him. He may give or sell his vote to the adverse candidate, in violation of all the pledges which had been taken from him. The crime is easily committed, for he votes by ballot; detection difficult, because he does not sign it; prevention is impossible, for he cannot be coerced: the injury irreparable, for the vote cannot be vacated; legal punishment is unknown, and would be inadequate; and thus, the defrauded voters, after all their care and toil, remain without redress for the past, or security for the future. That these mischiefs have not yet happened, is no answer to an objection that they may happen. The infancy and consequent purity of the Republic, is not the age to expect them. They belong to that riper period, to which the increasing wealth and population of the country is rapidly carrying us—to an age not far distant, in which the lust of power in our own citizens, and the criminal designs of foreign nations, will give hundreds of offices and millions of money for as many votes as would turn the scale in a Presidential election. Then why preserve an institution which no longer answers the purpose for which it was created, and whose tendency to inflict irreparable mischief, is not counterbalanced by the slightest capacity to do any good? An institution which must impose upon the people a string of unknown candidates at the commencement of the canvass, or distract their attention by a multitude of pretenders, which necessarily brings extraneous influences to govern the election; and, after it is over, subjects the whole body of the voters to be defrauded of their rights. Upon what principle of human action can the people be required to incur the hazards of an irresponsible and uncontrollable agency, in a case which requires no agent? Why have recourse to an agent whose

treachery may ruin, and whose fidelity cannot aid you? Why employ another to do a thing which every citizen can do as easily for himself? In the general ticket and legislative modes of election, the body of electors may be made to act a part. They become, in such cases, indispensable machinery, to enable the dominant party to effect their views; but, in the district system, they are even incapable of being used for this purpose; and, if kept up, can be seen in no other light than as the reserved instruments of future and contingent mischief.

That the qualified voters of the States ought to possess the real, as well as the nominal right, to elect the President and Vice President of the United States, is a proposition deducible from the rights of man, the nature of the Federal Government, and the proper distribution of all its powers. The nature of this Government is *free and representative*. It is a Government of the *People*, managing their own affairs in their own way, through the agency of their own servants. It rests upon **ELECTION**, in opposition to **HEREDITARY SUCCESSION**; and unless the people make these elections, the peculiar feature which distinguishes this Government from a limited monarchy, must rapidly disappear. In the distribution of the powers of the Federal Government, the faculty of election was the only one which appropriately fell to the mass of the people. It is the only one which they *can* exercise. All others are necessarily assigned to a few select hands. The people in mass cannot command armies and fleets, preside over public affairs at home, and treat with foreign nations abroad: These powers must be left to the Executive office. They cannot assemble in a body and enact laws: this power of legislation must be left to representatives. Still less can they sit in mass upon the rights of persons and property, administer justice, and expound the laws: all this must be confided to a small number of judges, placed, by the tenure of their office, far above the immediate control and influence of the people. What part, then, remains for the body of the people to act in the administration of the federal government? Elections; and nothing but elections remain for them; and in the original distribution of power, this part was the one assigned to them. Representatives in Congress were to be chosen by them; in the election of Senators, they were to have an indirect vote; and in that of President and Vice President, they were to choose, through their immediate representatives, such as they believed to be most capable of making a good choice for them. Thus, the power of electing the executive and legislative members of the Federal Government, was the only attribute of sovereignty left in the hands of the people, by the Federal Constitution; and if this attribute is lost or destroyed in the most important election of all, that of the Chief Magistrates, then the appellation of sovereign, with which the people are so often greeted, becomes a title of derision, only serving to remind them of what they ought to be, and of what they are not.

That this great privilege of election was intended to be a real, and not a barren power in the hands of the people, was asserted and

admitted by the ablest advocates of the Constitution, at the time of its adoption. The jealous friends of liberty were alarmed at the first appearance of that instrument, at seeing the accumulation of almost kingly power, which it placed in the hands of the President. They saw him vested with authority to nominate the officers of the army, and to command them; to nominate and command the officers of the navy; to nominate and dismiss, at pleasure, all the collectors and disbursers of the public revenue; to nominate the judges who administer the laws, and the ambassadors who treat with foreign powers; to exercise, by his qualified *veto* a direct part in legislation, and, by his character, station, and vast patronage, to possess a great influence over both branches of the Federal legislature: And from this accumulation of all efficient power in the hands of the first Magistrate, they saw, or thought they saw, ground of real apprehension for the safety of the public liberty. But they were answered, that all these apprehensions were without foundation; that there was one single consideration, which would show them to be groundless; and that consideration was this: that the President himself was to be nothing more than the creature of the people, elected by the best and wisest among themselves; such as they themselves would agree could make a better choice than themselves; and that, thus issuing from the bosom of the people, dependent upon them for his first election, and subsequent re-appointment, he would, in fact, be nothing but an instrument in their hands, by means of which, they could direct all this formidable array of power to the protection of their own liberties, and to the augmentation of their own happiness. By this answer, enough were soothed into acquiescence, to permit the Constitution; by lean majorities, in several States, to get into operation. And now, if by any vicious practice, which shall grow up under this Constitution, the people shall lose the power of electing the President and Vice President, then they lose the only attribute of sovereignty which, as a body, they are capable of exercising in the administration of the Federal Government; they lose the attribute, and the only one, which was assigned to them in the first distribution of power in the organization of this Government; the identical one which they were flattered into the belief of possessing, when they consented to the establishment of the Constitution; and the one which cannot be lost, without rendering the remaining privilege of voting indirectly for Senators, and directly for Representatives, of too little consequence to be worth preserving.

The laws operate upon the people; therefore, the theory of our government requires, that the mass operated upon by the laws, should elect those who make the laws. The same principle applies, with still greater force, to the eminent officer who executes the laws, and who, in executing them, is supported by an army, a navy, a judiciary, and a host of revenue officers, all deriving their appointments from himself. To secure to the people the influence over this eminent officer, which the theory of our Government admits, and which their own safety demands, it is indispensable that they should be brought, as nearly as possible, into the presence of each other. No intervening

bodies should stand between them. The President should be nothing but an emanation of their will. His powers are too great to be independent of the PEOPLE, without danger to their liberties. To them he should, therefore, look for all his honors—the brilliant distinction of a first election, and the crowning reward of a second one.

Holding it to be a proposition demonstrated, that, in this confederation of republics, the choice of the chief magistrates should be left to the whole body of the qualified voters; it is not to be dissembled, that several objections, and some of them specious, and even plausible, have been urged against it. That there should be objections to this plan of election, founded in conviction and urged with sincerity, could not be unexpected by the Committee. They very well know that there does exist, always has existed, and forever will exist, in every free government, two very opposite classes of politicians: one dreading that the people will overturn the Government; and the other dreading that the Government will seize upon the liberties of the people: the first class having the fear of anarchy, the second of monarchy, constantly before their eyes. That the apprehensions of each are very sincerely felt, is readily admitted; but on which side lies the ground for apprehension, is not to be decided by argument, but by reference to the historical fact, that of the hundred republics which have flourished in the other hemisphere, in the course of the last thirty centuries, not one is now surviving! All have slid into the kingly system, while not a single kingdom has taken and retained the republican form!

Convinced of the impossibility of removing apprehensions which have their foundation in nature, it is yet due to the cause of popular rights and of free governments, to answer the objections which have been urged against the election of our President and Vice President by a direct vote of the people. Analysing these several objections, for the purpose of exposing their futility, they are found to resolve themselves into several distinct classes; the first of which springs from the supposed corruption, ignorance, and violence of the American people. The committee would remark, that, in a period of two thousand years, the friends of the hereditary principle have got no further than to vary phrases upon these three ideas. The address of the Roman Senate to Octavius, beseeching him to accept the Imperial dignity, and that of the French Conservative Senate to the First Consul, begging of him the same favor, are each composed of nothing but diversifications of these three ideas, supported by an infinity of examples drawn from the conduct of elective Governments. Neither these ideas themselves, nor the examples which support them, have any analogy or applicability to the state of the people, the nature of the government, or the condition of the country in which we live. The charge of ignorance can have no foundation among a people with whom the talent of reading and writing is nearly universal; whose intelligence is kept up to the progress of the age, by the multiplication and diffusion of newspapers; whose daily occupations, as citizens, is a daily improvement of their mental faculties; with whom the institution of schools and

colleges is a maxim of primary policy, and the education of their children considered as an endowment more precious than the richest inheritance. Upon such a people the imputation of ignorance is an unfounded aspersion, and will be an aspersion still more unfounded in its application to their posterity. But the imputation is not only unfounded, but is even contradictory in the mouths of those who utter it; for even these admit that the people are sufficiently intelligent to choose electors, and that these electors are bound to vote as the people direct them. Here, then, the theory of the popular election is admitted; and to deny the practice while admitting the theory, to refuse a vote to the people in person, and to allow it to them in the person of an elector, involves a contradiction which defeats the objection, and exposes the elector to the suspicion of being wanted for a purpose which has not been discovered. After all, admitting that the mass of the people may not be so well informed upon the qualifications of Presidential candidates, as a smaller and more select body might be, yet this disadvantage is more than compensated by the greater disinterestedness of their condition, and their sincere desire, growing out of their obvious interest, to get the best man for President. The mass of the people always go for their country; politicians, too often for themselves and their party; and it is believed that there is less danger to be apprehended from the honest mistakes of the people, than from the criminal designs of ambitious politicians. But the objection goes to the root of all republican Governments. For, if the people are incapable of electing their own chief magistrate—if they are too ignorant, factious, and corrupt, to make this choice for themselves, it results, as an inevitable consequence, that there is no other alternative but to take refuge under that Providence which is supposed, by the friends of the hereditary principle, to provide good Kings for bad people.

That there is any reason to apprehend violence in the popular election of President, cannot be admitted. The examples quoted from foreign countries have no foundation in any thing analogous in our own, and the idea itself is contradicted by the history of all elections among ourselves. Every foreign example which can be adduced, combines two great causes of excitement, (to say nothing of minor ones,) the union of which is indispensable for the production of violence, and neither of which can exist in our Presidential election: *the FIRST, derived from a PERSONAL intercourse between the candidate and the voters; and the SECOND, from the ASSEMBLAGE of ALL the voters at one single election ground, on the day of election.* Examine the instances so often referred to, the election of a Roman Consul, of a Polish King, or even of a sovereign Pontiff; each will be found to combine these two great causes of excitement, and no others can be adduced in which the same principles of action do not exist. Compare one of these elections, that of a Roman Consul as the fairest and most apposite, with the plan of election for the American President, which the committee recommend, and observe how completely one includes, and the other excludes the two great causes of excitement mentioned, and a

number of minor ones which inflame their operation. The candidate for the Roman Consulship was bound by a custom, in the early ages of the Republic, and by a law in the later, to appear in person, and canvass for the office, face to face, with all the voters. Treats and entertainments were not only allowed, but expected and required. Besides standing, on public days, upon the highest places in the forum and the market, he was bound, at certain intervals, to circumambulate the city, in all the forms of a regular canvass. The pomp and circumstance of this display were eminently calculated to act upon the imaginations and to inflame the passions of the people. Every circumstance, calculated to produce effect, was carefully selected, and skilfully arranged, beforehand. The day was chosen with careful regard to the state of the weather and the convenience of the public. On the morning of that day, an immense crowd assembled at the house of the candidate, made him their salutations, and conducted him to the Capitol, amidst the loudest acclamations. There the procession was formed, and the canvass regularly opened. The candidate, on foot, arrayed in the *Toga Candida*, commenced his circumambulation of the city, followed by his *Sectatores*, *Nomenclatores*, *Interpreses*, *Divisores*, *Sequestres*, and all the crowd besides, which interest and curiosity could collect in the metropolis of the world. An open dress allowed him to display the scars of wounds which he had received in battle; the manners of the age permitted him to recount the exploits which himself and his ancestors had performed, and to point out the services which they had rendered to the State. In this form, every street, and square, and suburb of the city, was visited; every citizen was saluted by name, and every one humbly solicited for his vote. The *Sectatores* extended the length, and swelled the ranks, of the procession; the *Nomenclatores* whispered in the candidate's ear the name of every citizen that was met; the *Interpreses* made bargains for votes; the *Divisores* distributed the price; and the *Sequestres* received the portions of those whose sensibility shrunk from the public reception of a bribe. The candidate who did all this, was often a Senator of princely fortune, possessed of all the family influence which hereditary wealth confers; but more frequently a victorious General, loaded with the spoil of plundered provinces and conquered kingdoms. The voters to whom he addressed himself, were warlike young men, veteran soldiers, and the dregs of an overgrown and corrupted city. Thus inflamed and prepared, the candidate and the voters met again on the day of election, in the place, of all others, best calculated to produce excitement, with the means in their hands of shedding blood, and an ample field for action: they met in the *Campus Martius*, armed as if for battle, separated into odious and rival divisions of *classes* and *centuries*, and free from all control from the civil magistrates. A single tent contained the candidates and the judges, a narrow bridge let in the voters, and a vast field held the assembled, armed, and agitated multitude. That violence and bloodshed should attend such elections, was natural and inevitable. But what points of resemblance can be found between those and ours? The candidate for the American Pre-

sidency is destitute of hereditary wealth, and frequently impoverished by a previous service in the public affairs; he is unable, if he should be willing, to establish a personal intercourse with the voters, by circumambulating the territories of the Union—nothing but his reputation to rely upon; the mode of acting upon the public mind reversed by the power of the PRESS, which gives to intellect that range over a Nation, which, in the Roman times, was confined to the city: the people to be acted upon, a body of tranquil citizens and cultivators, scattered over an immense surface, and voting in small bodies, in the absence of candidates, without arms or odious distinctions, and at several thousand different places. The means of preserving tranquillity in these elections, are just as certain of their effect, as those for producing violence were certain of theirs in the election of the Roman Consuls. There is nothing in one which can serve for an example in the other; and, accordingly, our elections have been as marked for order and tranquillity as those of the Romans were for violence and bloodshed.

The idea of violence, in a popular election for President, is considered by the committee as an apprehension without foundation in reason, unsupported by examples from abroad, and contradicted by all that can be found at home. For fifty years the people of the United States have been engaged in elections. They vote, in every State, for Representatives in Congress, in many for their own Governors, and in all for a less or greater number of the civil and military officers. The danger of bloodshed is much greater in these elections where all the candidates are known, have a personal intercourse with the voters, and are frequently present with their friends and relations, than in an election for President, where the several candidates, by their remoteness from the scene, and general want of personal acquaintance, amount to little more than objects of abstract contemplation. Yet in these domestic and State elections, no scenes of bloodshed have been witnessed, no recourse to arms has ever ensued the most animated contests. So far from dreading violence at our Presidential elections, the reverse of that danger, in the opinion of the committee, is the one to be apprehended: apathy! indifference! a neglect of the elective franchise, of more portentous import to the cause of liberty, than the greatest excesses of violence! Already we have cause to feel alarm at the progress of this new and unexpected danger, which is making its silent and fatal approaches upon one side, while we are discussing the possibility of its approaching upon an other; and, upon every principle of human action, this present danger should be repelled before an absent one is hunted up. To trace this new evil to its source, to display its present magnitude, and to calculate its inevitable effect, would be matter of useful and curious speculation, worthy of the public attention, but not coming within the range of a report, drawn up upon the instant, and wanted for an immediate occasion. But, without going further back than to the last election, the most ample proof of the main proposition can be readily found; for it was one eminently calculated to excite the feelings and to bring forth the passions of the people.

The candidates were numerous, popular, personally known to many, through fame known to all, stationed in the three great sections of the country, each supported by zealous friends, and determined partisans, opposed by others equally zealous and persevering, and the canvass prolonged through the unexampled period of four years. Yet, what was the result? an election of violence and bloodshed? On the contrary, an alarming neglect of the elective franchise! The people with difficulty were got to the polls! In a few States, where the contest was warmest, about one half gave in their votes; in many, not a fourth; in some, not an eighth! Such was the conclusion of an election, in which so much violence had been apprehended, and in which so many causes conspired to produce it. If called upon to point out the cause of this amazing apathy, it would be shewn to arise from the interposition of electors between the people and the object of their choice. This intermediate institution, intended to break the force, and to soften the action of the democratic element, has been successful in the first forty years of its existence in destroying the life of the election itself; thus adding another to the many proofs already existing, of the truth of the great maxim, "THAT LIBERTY IS RUINED BY PROVIDING ANY KIND OF SUBSTITUTE FOR POPULAR ELECTIONS." The machinery of electors, placed between the people and the President, and, above all, the imposition of the general ticket, has paralysed the spirit of the voters, and made them look with indifference upon a scene in which they can act no really efficient or independent part. Of the few votes actually given, in the election referred to, a large proportion came from the least estimable description of voters—the interested and unproductive classes—while the real people, they whose industry constitutes the wealth of the country, whose purses pay the taxes of the Government, and whose arms fight its battles, took less interest in the result of this great election than they would have felt in an ordinary canvass for county officers. Seeing this to be the state of things at present, and supposing the evil of it to go on increasing, the real people, becoming more indifferent to the election of President, and the interested classes more animated, as the game is more and more abandoned to their pursuit, what else can be the result but that the election of this officer, who wields the efficient power of the Federal Government, must eventually fall into the hands of those who want that power wielded to the single object of personal promotion and individual aggrandizement?

But, what is this objection, this cry of violence which is raised against the people? Is it any thing more than heated discussion, boldness in speaking and writing, and some casual affrays between individuals, such as every other election produces? Is not this the idea of popular violence among us? And shall this wholesome animation be checked, under the notion of preventing civil wars and popular seditions? Is excitement of this kind dangerous to Republics? On the contrary, is it not necessary to their existence? Are not talents developed, new ideas struck out, useful designs conceived, great enterprizes achieved, and liberty itself preserved, by the agitation, the collision, the active

rivalry, and animated competitions of the whole body of the citizens? The sleep of the spirit is as dangerous to Republics as it is auspicious to Monarchies, and it is only in the latter that it should be the policy of the Government to reduce the people to the quietude of machines. Instead, then, of yielding to the force of this objection, this supposed excitement of the people, it should be hailed as one of the chief advantages to be derived from the exercise of the direct vote. It should be looked to as the identical circumstance which is to infuse new life into the election, reanimate the voters, and encourage the real people to attend the polls, and to discharge, with becoming pride, that exalted privilege of freemen, which is now so much neglected.

Finally, who are *this people* who are not to be trusted with a direct vote; whose ignorance, violence, and corruption, are so much dreaded? Wherein do they differ from those who make the objection? Are they not of the same order of beings, possessed of the same capacities, nearly or quite as well informed, more deeply interested in the welfare of their country, and infinitely further removed from the operation of indirect causes? Are they not, in fact, the identical persons who are greeted with the appellation of Sovereign, whose will is admitted to be the source of all power, and whose happiness is proclaimed to be the end of all government? Then, with what face can we turn upon these people, and tell them that they are incapable of exercising the only attribute of sovereignty which they have ever claimed—that of election?

The existence of slavery in some parts of the confederation is supposed, by some, to present an insuperable obstacle to the plan of amendment proposed by the committee. In the opinion of these persons, the operation of the direct vote will involve the loss of the qualified votes which they now give for their black population. Such would undoubtedly be the effect, if the plan of the committee was the same which it was understood by many to be, a plan of consolidation, in which all the votes of all the States were to be collected into one general return, and the election decreed to him who had a majority of the whole. Such a plan would work an injury not only to the slave holding States, but in a greater or less degree, to almost every State in the Union; for the qualifications of the voters differing in each, some prescribing a freehold possession, some the payment of a tax, some a residence of a few months, others of a year, and others again the privilege of universal suffrage; it would thence result that the same mass of population would yield, in different States, a very unequal number of votes. But the plan of the Committee is not one of consolidation; it disturbs no principle of relative weight among the States now fixed in the Constitution; each will give the same number of Presidential votes with, or without the amendment. The States will be divided into districts, in the same manner as if for the choice of electors. The qualified voters will then vote for a President and Vice-President, instead of voting for an elector, and the persons having the highest number of votes for these offices, respectively, will be considered as elected in the district, and entitled to count one vote,

To the result, it will be wholly immaterial whether a district containing a given number of souls, say 40,000, shall possess one thousand or five thousand qualified voters. The State will have its number of Presidential votes, and the people of each district will give each vote according to their own sense of their own interest. The formation of the districts, and the qualifications of the voters, and the regulations of the elections, powers of essential importance to the States, and most capable of being properly exercised by them, are left to the States respectively. Thus, the plan of the committee avoids all questions growing out of the existence of slavery in some States, the various qualifications of voters in others, and presents not a single objection, which would not apply with equal force to the choice of electors by districts.

Considering these several objections as effectually disposed of, there still remains an argument to be answered, which demands from all the friends of our present forms of government, the most respectful and deliberate consideration. It is one which derives itself from a sacred regard for the *rights of the States*, and from an apprehension that the committee's plan of amendment will tend to produce that consolidation of this league of republics which every friend of liberty must deprecate and oppose. If such was indeed to be the effect of their amendment, and the committee could be made sensible of it, they would be the first to oppose that plan of election which they are now recommending with so much earnestness. Far from looking with indifference upon that jealous spirit of State rights which feels alarm at the slightest noise of encroachment, they regard it as a spirit of happiest omen, worthy of being respectfully treated, generously cherished, and carefully kept alive. The preservation of the State Governments, such as they left themselves when they gave up a part of their powers to compose this Federal Government, is not only necessary to the well-being of the people within those States, but is indispensable to the continuation of the Federal Government itself. If they are broken down, or materially weakened, the Federal Government must cease to be what it is, must be broken down also, and recomposed under some new and infinitely stronger form. In all its operations in defence of liberty, and in all its contests with foreign powers, the governments of the States can give the most efficient aid to the government of the confederation; and if this latter should undertake any thing against the lives, liberties, or property of individuals, the State Governments alone are competent to check the encroachment, and give protection to the rights of the citizen. They are the best directors of all the powers which were reserved to the States in the convention of 1787, and if the time shall ever come when these reserved powers shall fall into the hands of the Federal Government, and be exercised by members of Congress drawn from all the States, the fate of the weaker members and smaller sections of the confederation may be read in the history of all the confederacies which ancient or modern times have produced: tyranny and oppression on the part of the strong; misery and degradation on the part of the weak; burthens unequally imposed, benefits unequally divided; and the most unjust

decrees enforced with arms and penalties! Such is the frightful picture which the history of all such confederacies present, and from which this, in its turn, could expect no exemption. The dread of these evils should alone be sufficient to make us guard the rights of the States with jealous care, and maintain with inflexible firmness that equilibrium of power which was adjusted between them and the Federal Government, at the establishment of the present Constitution. But a consideration of still higher and more imperious import, demands the same policy. That consideration is this, *that Liberty itself, will live longer in a LEAGUE of Republics, than in a Republic ONE and INDIVISIBLE.* Reason and history support this proposition. In the first place, it is certainly more difficult to overcome *many* governments, acting together for a common cause, than it would be to overturn a *single* government, possessed of their united territories, strength, and resources. The history of our Revolution is a pregnant example of this truth. In the next place, the conduct of the capital, in a great nation, often decides the fate of the nation itself. Thus we have seen in history, that whoever had Rome, had the Empire, and, in our own day, that whoever had Paris, had France. But in a league of Republics; the corruption, cowardice, or treason of the Metropolitan City, could not affect the safety of the remoter members of the confederation. The mother capital might open her gates to a foreign enemy, or bend her neck to the yoke of a domestic master, but other cities would remain, capitals of powerful States, the seats of organized Governments, mistresses of armies, forts, and arsenals, and deriving supplies from a regular system of revenue. To these the friends of liberty could resort, and arm again for the renewal of the contest, instead of flying to a foreign shore to die in despair. Brutus and Cato need not to have fallen upon their swords if they had had such points of retreat; the revolutions in Paris might not have lost the Republic, nor its capture, the Empire, if the *Girondists* in '93, and the wrecks of the armies in 1814, could have found in the Departments of the Rhone and the Loire, a Virginia or a New York, to have received and sustained the faithful friends of France. Thus deeply impressed with the evils of consolidation, and looking to the preservation of the State Governments as equally necessary to the well-being of their own citizens, and to the perpetuation of the general liberty, it cannot be supposed that the Committee have wittingly proposed any thing which tends to produce the evil which they deprecate with so much zeal and sincerity. Still, it is the opinion of some, that the rights of the States will be endangered by the adoption of the Committee's plan of amendment; the Committee think otherwise; here then, is a difference between those who have a common object in view, and to decide it, the points in issue must be fairly stated and candidly examined. These points are:

1st, The supposed diminution of power in the *State*, to choose between the legislative, the general ticket, and the district modes of election.

2d, In the supposed diminution of the power of the *State* in concentrating her strength in those elections.

3d, In the supposed tendency of the direct vote towards the consolidation of all the *States*.

These being the points of objection, the question is plainly presented, whether they amount, in reality, to any encroachment upon the rights of the *States*, or contain any of those tendencies towards consolidation which have been imputed to them. But, before proceeding to answer this question, it is necessary to fix precise ideas to several terms which are the very hinges of the question itself. "STATE RIGHTS—SOVEREIGNTY OF THE STATES," are the terms referred to. By some, who use these terms, the *General Assembly* of the *State* is considered as the *State* itself, possessed of all its *rights* and *sovereign* powers; by others, the Executive officers of the *State* Government are held to be the *State*, and to have the possession, during their continuance in office, of the *rights* and *sovereignty* of the *State*; by others again, the Senators and Representatives in Congress from a *State*, are supposed to represent the sovereignty of the *State* itself; and to hold in their hands, for the time being, the same high *rights* and *sovereign* powers. All these opinions are held to be erroneous, and, without accumulating authorities and quotations, it may be laid down in brief and plain language, that the QUALIFIED VOTERS of a *State*, to the exclusion of the *General Assembly*, the Executive officers and the members of Congress, constitute the SOVEREIGNTY of the *STATE*, and hold its RIGHTS in their hands. Who these *qualified voters* shall be, depends upon themselves, through their Representatives in Convention, or *General Assembly*, to say; but whosoever they may be, whether freeholders, householders, or holders of no property at all, they hold in their hands the rights and sovereignty of the *State*, and all the public officers are nothing more than their servants. The members of the *General Assembly*, the members of Congress, and the Executive officers, are nothing but agents for the real sovereigns, confined to the exercise of delegated powers, and become mere usurpers, if they presume to exercise the powers of sovereignty. From these positions, it results, that these agents may lose a part of their powers, not only without diminishing the sovereignty of a *State*, but, in reality, to produce the effect of increasing that sovereignty by so much as is taken from the servants and restored to the master. This is believed to be the exact case which is now presented for decision in the point of objection first stated. The *State Legislatures* now possess the right to say, whether electors shall be chosen by districts, or by a general ticket; and some of them, without establishing a clear right, exercise the privilege of choosing the electors themselves. By the proposed amendment, it is admitted, as objected, that these several powers will be taken from the Legislature, and that a uniform mode of voting by districts will be substituted, which they cannot change. But, so far from admitting that the *sovereignty* of the *State* loses any thing by this operation, the direct reverse is maintained; the servants only being the losers, while the real sovereigns gain. For, it is not to be questioned, but that the district system gives the fairest play to every voter, and the fullest effect to

every vote; nor can it be denied that it conforms to the intention of the present Constitution, which, in giving an independent vote to every elector, instead of a consolidated vote to the college of electors, governed by a majority, manifestly intended that each mass of citizens, entitled to choose one elector, should have the right of disposing of one vote according to their own sense of their own interest. It is a fact, of historical notoriety, that the general ticket plan of election has been adopted in some States for the avowed purpose of controlling this intention of the Constitution; and for the purpose of subjecting the weaker sections of the State to the policy of the stronger: thus giving, on a smaller scale, and in reference to counties and State divisions, an example of that tendency of the strong to oppress the weak, which is one of the main objections to the consolidation of these Confederate States.

The objection, that the establishment of a *uniform* mode of election by *districts*, will trench upon the rights of the *States*, cannot be admitted. *Uniformity*, as such, cannot be an evil; and, if it was, the infliction of it could not be avoided by rejecting the Committee's plan of amendment. For, if uniformity by districts is not established by the free consent of the States, uniformity by general ticket or legislative ballot, must be imposed by necessity. For, when the large States consolidate their votes to overwhelm the small ones, those, in their turn, must concentrate their own strength to resist them. A few States may persevere for some time, in what they believe to be the fairest system; but, when they see the unity of action which others derive from the general ticket and legislative modes of election, they will not, and, with due regard to their own safety, they *cannot*, resist the temptation of following the same plan. Hence, *uniformity* will be imposed by necessity, if it is not adopted from choice, with this great difference, that the first uniformity will deliver up the votes of the State, to the active managers in the General Assemblies, while the latter would leave them in the hands of the real sovereigns, the qualified voters of the whole State. It can hardly be said that the States would have a choice, when the option would be between falling into the general ticket system, and submitting to a material diminution of their relative weight in the election. The question, then, turns upon the relative advantages of the general ticket and district modes of voting; one or the other of which must soon universally prevail; and it matters nothing to the *sovereignty* of the State, whether one shall be established by the Constitution, or the other imposed by necessity; and, as the whole point of this objection is confined to the mere *right* of choice, and of changing the systems from time to time, it results that this right can be of no value where choice is impossible, and change not desirable.

2. The second point in the objection is, the supposed diminution of the power of the *State*, in that tendency to scatter the votes which the district system is admitted to possess.

Admitting that a unity of its votes may be desirable to a State; that unity will be produced by the district system, as often as the

State desires it. If the majorities in all the districts are of the same opinion, they will create the unity by giving the same vote; if they are not, it is held to be a violation of the rights of so many districts as would have voted differently, to impress their votes into the service of the dominant party in the General Assembly of the State. In the general ticket mode of election, the vote of the State is directed by the majority of the State Legislature; the majority itself influenced by some leading members; and the ticket, thus arranged, is often made to triumph over the whole State, by the mere effect of discipline, and in open violation of the will of the actual sovereigns, the fair majority of the qualified voters. It is capable of demonstration, that the general ticket election, especially over a large surface, is often no election at all by the people. A small and organized body supply the place of numbers, by unity of design and energy of action. Want of concert in the body of the people, will render superior numbers of no avail. Division will destroy their strength, by scattering their votes; and anticipation of defeat will ensure it, by preventing numbers from going to the polls.

3. The last branch of the objection is in the supposed tendency to consolidation, which is seen by some in the abolition of electors, and the substitution of the direct vote of the people. This is completely and fully answered in a foregoing part of this Report; to which it may be added, that, when analyzed, it turns out to be nothing more or less than an old objection in a new form, to the district system itself. For the purposes of consolidation, it is perfectly immaterial whether the people vote by districts, in their own persons, or through the agency of electors; and, if this system is established, it is unknown to the Committee for what object the institution of electors can be supposed to be wanting.

Finally, there is a point of view from which to look at the several branches of all these objections, which exhibit them in the light of anomalous, if not very equivocal, pretensions to the character of *State* rights. It is this: that they present, as contending parties, not the Federal Government on one side, and the People of a State on the other, but the *Legislature* of a *State* against the *People* of the same State: the servants against their masters; the leading men against the mass; the few complaining that they will lose the privilege of controlling and directing the votes of the many!

The Committee have based their plan of amendment upon the proposition, that the plan of the Constitution had failed in the election of President and Vice President of the United States. The points of failure were indicated in its two leading features—the institution of ELECTORS, and the ultimate election, by STATES, in the House of Representatives. That the first branch of this proposition has been fully demonstrated, and the best substitute proposed which the case admits of, is respectfully submitted to the decision of the Senate. The establishment of the second branch, and the demonstration of the fitness of the proposed substitute, remain to be attempted.

That it was the intention of the Constitution, in giving to the *States*, in the House of Representatives, an equality of votes for President, to increase the weight and respectability of the House, and to give to the small states a chance to act an efficient part in the election, is equally clear from the Constitution itself, and from all the cotemporaneous expositions of that instrument. Upon these grounds the power in question has often been defended; but if the intention of the Constitution has failed; if the small states have not realized the *chance* which was intended for them; if the House of Representatives has derived no additional weight or respectability from acting as umpire between Presidential candidates; above all, if real evil, both to the House and to the people of the States, have been found to result from this contingent power of election; then there can be no reason for preserving a part of the Constitution which has failed of its object, and produces evil instead of good. The Committee believe that this failure has been complete, and that the principles which should govern the election of a Chief Magistrate, in a free country, require that the choice of President of these United States should no longer be permitted to devolve upon the House of Representatives. These principles have been stated, and enforced, in the course of this Report. They spring from the dangers to which such elections are liable. These dangers are—

1. Of corruption among the voters.
2. Of violence, in the heat of the elections.
3. Of coalitions, to elect or defeat a particular candidate.

Opposed to these dangers are certain rules of action, ripened into axioms, to the *test* of which, every election of a first officer of a Republic should be brought. These axioms are—

To prevent corruption:

1. Multiply the voters.
2. Keep the candidates from among them.
3. Avoid pre-existing bodies of electors.

To prevent violence and avoid coalitions:

1. Separate the voters.

The plan of election in the Committee's amendment, both for the first and second election, has been brought to the *test* of each of these axioms, and found to abide them. The voters will consist of millions, and cannot be corrupted; they will be scattered over the territory of the whole confederation, and cannot hold an intercourse with the candidates; they will vote at several thousand different places, on the same hours of the same day, and can neither fight, nor coalesce; they are not a pre-existing body, in the sense of the objection, for that term only applies to small selected bodies.

Tried by the *test* of these axioms, the House of Representatives, as an electoral college, stands condemned upon every one of them.

1. It is a small body, *therefore* capable of being corrupted.
2. It is a pre-existing body, *therefore*, capable of being tampered with.

3. It sits in the presence of the candidates, *therefore* is subject to be influenced by an intercourse with them.

4. It votes in a body, *therefore* is subject to violence, and capable of coalitions.

In addition to these objections, to which the House of Representatives is subject, in common with all small bodies, it is yet liable to others, peculiar to itself, as a legislative department, viz.

1. The anomaly of a Legislature creating the Executive.

2. The interruption of its regular business.

3. The introduction of a new *test* in elections of members.

4. The application of a new influence to these elections.

5. The creation of opposition and administration parties in Congress.

6. The effect of all this upon fair legislation.

7. The further effect of all this upon the minds of the people, the character of the government, and the stability of our republican institutions.

There is one point, however, and the Committee are proud to state it, in which the House of Representatives, as an electoral college, must forever be entitled to a preference over any other of equal numbers, which can be constituted: it is in the elevation of its character; in the talents which distinguish, and the integrity which ennoble it, and which the pride, virtue, and intelligence of the people must be forever anxious to preserve and exalt.

The objections which have been stated against bringing the election into this House, are of such a character, in the opinion of the committee, as to merit the most serious consideration; and, when their weight and importance are duly estimated, it can hardly be believed that the framers of our constitution, if they could have foreseen the frequent occurrence of that event, would have consented to endanger the purity of our government, and the stability of our institutions, by consenting to carry the election before that body, in any contingency whatsoever. It is obvious, from the whole theory and spirit of the constitution, that the President was intended to be chosen by electors fresh from the people, and that it was never contemplated that the election should devolve on the House of Representatives, except in an extraordinary and rare contingency. But, from an extension in territory, which could not have been foreseen, and an increase in wealth and population beyond all expectation, the pursuits of our citizens have become so diversified, and so many local interests have sprung up among them, that it is almost a vain hope that the election of President can ever again be effected on the first trial, whether the people vote direct, or through the agency of intermedial electors; and it seems to be no longer doubtful, that, under ordinary circumstances, the choice must, hereafter, devolve upon the House of Representatives. The provision of the constitution, intended only for an emergency, thus becoming one of ordinary application, and that which the wisdom of our fathers designed as the "*medicine of the state*," (to be resorted to only in a dangerous crisis) is to become "*our daily bread*."

In this view of the subject, it becomes a question, which addresses itself to the mind and heart of every lover of his country, whether Congress can be *safely trusted* with the choice of the Chief Magistrate of this great and growing Republic, not as an event, which in a series of years *may* happen; but which in the ordinary course of affairs *must* inevitably and frequently occur. The first objection, and the one which cannot fail to suggest itself to every mind, is the incompatible nature of the duties which belong to a Legislative Assembly and to an Electoral College. No principle ought, in the opinion of the committee, to be held more sacred, as none, certainly, is more plainly recognized in the whole structure of our government, than that which keeps the Executive and Legislative Departments separate and distinct. There seems, indeed, to be infused into the different branches of our Government, (doubtless for the wisest purposes) a jealous spirit, which, generously cherished and properly directed, may be fruitful of the greatest benefits. That the Legislature should elect the Executive, is an anomaly; it is altogether inconsistent with the most cherished principles of our system, and, in practice, may be found equally fatal to the purity of one branch of the Government, and the independence of the other.

The reference of this question, which will call into action the strongest, and some of the worst, passions of our nature, to a PRE-EXISTING BODY OF MEN, assembled at the seat of Government, and, from their character and situation, brought into almost daily contact with the candidate, on whom they can confer the first office in the Republic, and who, in turn, can bestow upon them brilliant honors and rich rewards, must, from the very nature of things, expose them to the various influences, by which power and patronage have, in every age, seduced men from the path of duty, and tempted them to betray the most sacred trusts. When we take into view the great and increasing patronage of the Executive, and of the various Departments under his control, and perceive how completely it is in his power to cause the influence of his office to be felt, we must shut our eyes to the lights of wisdom and experience, if we do not perceive, that the period is not far distant, when the office of President will be conferred as the reward of open intrigue and the deepest corruption. But it is not alone against acts of open and palpable corruption, that it becomes necessary to guard. A body, even of high-minded men, ardently engaged in running the race of honorable ambition, will always be liable to be deluded by the fascinations of office; and, though they may not be seduced from their course by the treasures which may be thrown in their way, will be induced to swerve from their duty by temptations more congenial to honorable minds; and that ready casuistry, by which politicians so easily deceive themselves, will furnish an apology for a course of conduct which, in private life, such men would scorn to pursue. All experience demonstrates, that the best security of virtue is found in avoiding all temptations. But even if the danger of corruption in the House of Representatives was less alarming in its magnitude, and less certain in its

occurrence, the Committee would still apprehend, that the preservation of the *character* both of the Legislature and the Executive, and securing to them that place in the public confidence and esteem, without which their strength will be but weakness, and their wisdom folly, would require that they should be far removed even from unjust suspicion. In a country like ours, governed by public opinion, it is of the last importance, that those who are appointed to make and execute the laws, and who must always give tone to our National character, should conciliate the confidence of the People, or at least stand before them unimpeached: That a successful candidate, exalted to the Chief Magistracy by the Members of Congress, should feel a deep sense of gratitude towards those to whom he is indebted for his elevation, is neither strange, nor the subject of just exception. In the distribution of the numerous offices within his gift, it would be impossible for him so to act otherwise than to exclude altogether from the range of his choice men, in other respects, well qualified for the highest offices, or to subject himself, however unjustly, to the imputation of being influenced by personal and unworthy motives.

But, if the election in the House of Representatives were liable to none of these objections, still, the interruption it will give to the calm and regular progress of legislation, would, itself, be an evil of the most alarming nature. The mixing up of party feeling, personal animosities, and local interests, with ordinary acts of legislation, would, unquestionably, be one of the greatest calamities to which the country could be exposed. Unless those who create the laws, like the judges who expound them, are free from prejudice and passion, it is impossible that they can fulfil their high duties with purity and wisdom. That the acrimonious feelings, and bitter animosities excited, in a contested election, in the House of Representatives, would not subside at its close, but would, for a long course of time, exert an influence on the deliberations, and perhaps control the decisions, of the Legislature, by disturbing the tranquillity of its course, and tinging every legislative act with party views and feelings, is too certain to admit of a doubt. We may, indeed, tremble for the fate of the country, when Congress shall be degraded into a mere Electoral College, and the high duties of the Legislature shall be confided to the opposing factions, known only as the enemies or partizans of the Administration. But this is not all. The People themselves, in such a state of things, will be tempted to contribute to this evil, by sending men to represent them, on the eve of every Presidential election, not because of the depth of their knowledge, the soundness of their principles, or their peculiar fitness for legislation, but on account of their political opinions, in relation to the several candidates for the Presidency. Even after the election was over, the evil spirit of the time might continue to operate, and to demand the election of candidates who would be particularly devoted to the new Administration. That the Administration itself, should be insensible to the success of these candidates, is not to be expected from human nature. Wishes must be formed, and the knowledge, or even suspicion of these wishes, would

bring an ardent and concentrated force to the support of the presumed favorite: on the other hand, all the elements of opposition would combine against him: merit would be out of the question; the public good no object; a degrading *test* would supercede all the recommendations of worth and talents; and even the elections of the State officers might be brought within the vortex of a system, so fatal to the interest of the country, and so full of degradation to the voters and the candidates.

In a government professedly founded upon the will of the people, that *will*, when known, should always be entitled to the most respectful consideration. Now, as far as public will can be ascertained, it is decidedly opposed to the House of Representatives, as an umpire, in the last resort, between the Presidential candidates. Yet, a second choice, by some *BODY* of electors, is inevitable; a majority, or even a large plurality, cannot be counted upon, in our subsequent elections. To whom, then, shall it be sent back? Who shall make the second election? We have seen that the House of Representatives is an unfit place, and that the people are against it. Will the present institution of electors do better; and shall they be retained for that purpose, in defiance of all the objections which lie against them? On the contrary, they will be subject to the main objections which apply against a pre-existing body; they will be, moreover, subject to the operation of all the undue influences which might be brought to bear upon the House of Representatives, without possessing the same pretensions to high character and public confidence. Then there is no better course, than to *SEND IT BACK TO THE PEOPLE*, with the single limitation, of confining their choice to the leading candidates.

Clear as the propriety of this course is to the mind of the committee, it is not free from objections in the minds of others. The first and most plausible of these objections, grows out of a concern for the rights of the *small States*, a material portion of whose power, it is apprehended, will be lost by taking from them their *contingent faculty* of electing the President, *BY STATES*, in the House of Representatives. Before this objection can be admitted, it ought to be shewn that this privilege is *actually possessed* by the *small States*, under the present system. The committee believe that it is not: for they cannot admit that a privilege, personal to a member of Congress, can be treated as the privilege of the *State* which he represents. Now, it is notorious, that a large portion, if not a majority, of the representatives who have heretofore been called upon to vote for President in the House of Representatives, have given that vote according to the dictates of their own feelings and judgment. In this course they have held themselves justified on the ground, that, in giving their votes, they acted in the character of *electors* under the *Constitution*, and not in their *representative* capacity. It is also certain, that, as no means are provided for a distinct expression of the will of the *State* upon the subject, (as between the candidates who may finally be brought into competition,) it is manifest that the Representative may not know, or knowing, may feign ignorance of the opinion of the *State*, which he represents;

even if he acknowledges an obligation to conform to it, when known. In many cases he certainly will be ignorant of it: in most, he must be without instructions: and, in all, he may disregard them. If, then, the privilege of voting for President, in the House of Representatives, is claimed and exercised by the member, *as an elector under the Constitution*, and not as a representative from his State; if the member, and not the State, exercises volition upon this point; if he denies the right of the State to direct his vote, or admits the right, and avoids the obligation: and, if the State has neither time nor means to manifest her will, or power to enforce it, or the right of vacating the vote after it is given; then, this boasted privilege may fairly be set down as belonging, practically, to the member, and not to the State from which he comes. The question which then presents itself, is one of conflicting claims to power, between an individual, on one side, and the State which he represents, on the other; between a member of Congress, in his seat, and the forty thousand persons who placed him there. Holding this to be the only question presented by the objection under consideration, the committee feel no difficulty in assigning the privilege to the party which, from its own position, is farthest removed from undue influence—by its numbers, is most difficult to be corrupted: which, individually, has as much, and, aggregately, infinitely more interest in the welfare of their country; and whose lack of information, if any, is amply compensated by the disinterestedness of their motives: and, in this transfer of power from the members of Congress at Washington, to the whole body of their constituents at home, it is the opinion of the committee that the State would be a gainer, instead of a loser. Still, this contingent vote for President, in the House of Representatives, is the cherished form of a lost substance among the smaller States, and although now reduced to nothing but an idea, they may be unwilling to give it up, without receiving the benefit of some concession from the larger ones. Here, then, is room for a compromise: the door opens for one of those mutually advantageous adjustments, by help of which the Constitution was made, and without which it cannot be amended. The large States overwhelm the small ones, with the consolidated vote of the general ticket; the small States balance the great ones, with the single representative in the House of Representatives. Now, it has been shewn that this apparent power in the great States to consolidate their vote, is, in reality, the usurped power of some individuals of the State Legislatures; yet, to the small States, its effect is just the same as if the real sovereignty of the State had directed its force against them. It has also been shown that this supposed power of the small States to balance the great ones in the House of Representatives, is, in fact, the power of the members in Congress from such States. Yet, to the large ones, the effect is just the same as if it was the power of the States. Here, then, is a grievance on each side; and, to get rid of it, and receive, in return, a great, substantial, and ardently desired concession from the other, the large States have nothing to do but to give up an abuse, and the small ones to surrender an idea.

The only direct objections to the *second* election by the People, (supposing the first to have been adopted,) which have come to the know-

ledge of the Committee, are few in number and easy of answer. The apprehension of violence in such renewed and protracted contest, is expressed by some. But if the Committee have been successful in showing that nothing of this kind is to be dreaded in the *first* election, the only proper inquiry now is, whether the *second* can produce that effect which the *first* could not. The Committee affirm the negative of this proposition, and appeal to that well known law in physiology which makes apathy succeed to violence the moment the crisis of excitement has passed away; and to the fact, that the number of candidates being reduced in the second contest, the peculiar causes of excitement, arising from personal acquaintance and local interests, will also be reduced in exact proportion to this reduction in the number of candidates. Instead of violence, indifference and neglect of the elective franchise is still more to be dreaded in the second than in the first election.

The *delay* of a second election is the last of the objections which has come to the knowledge of your Committee. This, as involving a question of mere detail, may be passed over with little more than a statement and explanation of the plan of the Committee on this point. It provides, that the first election shall be held on the first Thursday and Friday in August, 1828, and on the same days in every fourth year thereafter; that Congress shall be in session on the second Monday in October of these years, to receive and count the votes; and that the second election, when found to be necessary, shall take place on the first Thursday in December following. These provisions remove all objections relating to delay and want of time. The first election will take place at the period when the people are least engaged at home, and will have the further recommendation of taking place on the same day on which several of the States now hold their general elections, near the time at which many others hold them, and the one to which all the States would, in all probability, soon conform. An interval of about sixty days would then remain for collecting the votes in the different districts, and certifying the results to the President of the Senate; a period amply sufficient to send in the returns from the most remote States. A further interval of about sixty days would be allowed for giving notice of, and holding the second election; a sufficient time, in the opinion of the Committee, to communicate to the people the simple fact that a second election was ordered; the day itself being fixed beforehand, and the minds of the voters made up about the candidates, and the fact itself unofficially known before, the people would require no further notice, than that which would enable them to go to the polls. For this purpose, the time allowed will be twenty days more than enough, in the remotest sections of the Union. For collecting the votes in the districts, and certifying the results a second time to the President of the Senate, three months would still remain, as the new officers would not be wanted until the fourth of March. The fact that Congress would be in session two months longer than usual in every fourth year, is an additional recommendation to the details of this plan; it being now well known that the short sessions (from the great increase of business and of members) have become too short for the

accomplishment of the business on hand, some two hundred *orders of the day* usually remaining undecided at the last hour of these sessions, and all the time and labor lost which had been expended upon them.

The Resolution submitted by the Committee would, they confidently believe, entirely effect the great object of an election by the QUALIFIED VOTERS OF THE STATES, upon the second, at all events, if not upon the first trial. But, as it is within the range of mere possibility, that more than two persons may have the two highest numbers, in the first election, and that two or more may have the same, and the highest number in the second, it was believed by some that the plan of amendment would not be complete, unless some provision was made for this remote contingency of a mere possibility; the Committee have therefore agreed, in such case, to leave the decision to the existing provisions of the Constitution; considering it superfluous trouble to write out any new provision for a case which will almost certainly never occur, and which may therefore, safely undergo a nominal reference to the same body which, as a real electoral college, has received their decided disapprobation.

RESOLUTION

Proposing an amendment to the Constitution of the United States, as it respects the election of President and Vice President of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendment to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes, as part of the Constitution:

That, hereafter, the President and Vice President of the United States shall be chosen by the People of the respective States, in the manner following: Each state shall be divided by the Legislature thereof, into districts, equal in number to the whole number of Senators and Representatives, to which such state may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons, entitled to be represented, under the Constitution, and to be laid off, for the first time, immediately after the ratification of this amendment, and afterwards at the session of the Legislature next ensuing the apportionment of Representatives, by the Congress of the United States; or oftener, if deemed necessary, by the Legislature of the State; but no alteration, after the first, or after each decennial formation of districts, shall take effect, at the next ensuing election, after such alteration is made. That, on the first Thursday, and succeeding Friday, in the month of August, of the year one thousand eight hundred and twenty-eight, and on the same days in every fourth year thereafter, the citizens of each State, who possess the qualifications requisite for electors of the most numerous branch of the State Legislature, shall meet within their respective districts, and vote for a President and Vice President of the United States, one of whom at least, shall not be an inhabitant of the same state with himself; and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President in each district, shall be holden to have received one vote: which fact shall be immediately certified to the Governor of the State, to each of the Senators in Congress from such state, and to the President of the Senate. The right of affixing the places in the districts at which the elections shall be held, the manner of holding the same, and of canvassing the votes, and certifying the returns, is reserved, exclusively, to the Legislatures of the States. The Congress of the United States shall be in session on the 2d Monday in October, in the year one thousand eight hundred and twenty-eight, and on the same day in every 4th

thereafter: and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the certificates, and the votes shall then be counted: The person having the greatest number of votes for President, shall be President, if such number be equal to a majority of the whole number of votes given; but if no person have such majority, then a second election shall be held, on the first Thursday, and succeeding Friday, in the month of December, then next ensuing, between the persons having the two highest numbers, for the office of President: which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first, and the person having the greatest number of votes for President, shall be the President. But, if two or more persons shall have received the greatest, and equal number of votes, at the second election, the House of Representatives shall choose one of them for President, as is now prescribed by the Constitution. The person having the greatest number of votes for Vice President, at the first election, shall be the Vice President, if such number be equal to a majority of the whole number of votes given, and, if no person have such majority, then a second election shall take place, between the persons having the two highest numbers, on the same day that the second election is held for President, and the person having the highest number of votes for Vice President, shall be the Vice President. But, if two or more persons shall have received the greatest, and an equal number of votes, in the second election, then the Senate shall choose one of them for Vice President, as is now provided in the Constitution. But, when a second election shall be necessary, in the case of Vice President, and not necessary in the case of President, then the Senate shall choose a Vice President, from the persons having the two highest numbers in the first election, as is now prescribed in the Constitution.